

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL PAYNE #255388,

Plaintiff,

v.

Case No. 2:05-cv-245
HON. ROBERT HOLMES BELL

GERALD HOFBAUER, et al.,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On December 12, 2005, an Opinion and Judgment was entered, dismissing plaintiff's complaint for failure to exhaust administrative remedies. On March 13, 2006, plaintiff filed a motion for reconsideration. On September 6, 2006, plaintiff's motion for reconsideration was granted and this case was reopened. On September 15, 2006, plaintiff's copy of the Court's order granting motion for reconsideration was returned to the Court as undeliverable, indicating that plaintiff has been paroled and had left no forwarding address. Accordingly, it is recommended that plaintiff's complaint be dismissed, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute. *See Catz v. Chalker*, 142 F.3d 279, 286 (6th Cir. 1998); *Jourdan v. Jabe*, 951 F.2d 108 (6th Cir. 1991); *Buck v. U.S. Dept. of Agriculture*, 960 F.2d 603 (6th Cir. 1992).

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within ten (10) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich.

LCivR 72.3. Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley
TIMOTHY P. GREELEY
UNITED STATES MAGISTRATE JUDGE

Dated: October 2, 2006